

# Northern Territory Licensing Commission

## Decision on Whether Objections will Proceed to Hearing

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<b>Premises:</b>	<b>Antiquity Greek Restaurant</b>
<b>Applicant:</b>	Ginis Enterprise Pty Ltd
<b>Nominee:</b>	Ms Popi Ginis
<b>Licence Number:</b>	80518574
<b>Objectors:</b>	Commander Anne-Marie Murphy, Drug and Alcohol Policy Unit, Drug and Organised Crime Division, Northern Territory Police, Fire and Emergency Services
<b>Legislation:</b>	Sections 47F to 47I of the <i>Liquor Act</i> and Section 28 of the <i>Interpretation Act</i>
<b>Decision of:</b>	Richard O'Sullivan (Chairman)
<b>Date of Decision:</b>	13 February 2014

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### Background

- 1) Ginis Enterprise Pty Ltd, Licensee of Antiquity Greek Restaurant ("Antiquity"), has applied to the Northern Territory Licensing Commission ("the Commission") for a variation to its licence conditions, and has requested the removal of the conditions:
  - Requiring the consumption of liquor to be ancillary to a meal;
  - That cocktails are to be served ancillary to food; and that
  - There shall be no high tables or bar stools in the alfresco areas.
- 2) The application seeks to add to the Antiquity licence conditions the following:
  - Consumption of liquor without a meal will not be advertised or promoted;
  - The premises shall close no later than one and one half hours after the kitchen closes;
  - Snack foods will be available at all times;
  - The word "bar" shall not be used in any advertising or signage.
- 3) The Application was advertised in the NT News on Wednesday 27 November 2013 and Friday 29 November 2013 pursuant to Section 32A(3)(a) of the Act.

The advertisement was as follows:

***Ginis Enterprises Pty Ltd, hereby give notice that it has applied to the Northern Territory Licensing Commission for a change of licence conditions to the premises, Liquor Licence (number 80518574) known as Antiquity Greek Restaurant, located at 7 Kitchener Drive, Darwin, NT.***

*The application requests:*

- *To remove the condition in relation to the consumption of liquor to be ancillary to a meal;*
- *To remove the condition that all cocktails will be served ancillary to food; and*
- *To remove the condition that there shall be no high tables or bar stools in the alfresco areas.*
- *To add: "Consumption of liquor without a meal will not be advertised or promoted".*
- *To add: "Premises shall close no later than one and one half hours after the kitchen closes".*
- *To add: "Snack foods will be available at all times".*
- *To add: "The word "Bar" shall not be used in any advertising or signage".*

*The premises' concept shall remain unchanged.*

*This is the first notice of application. The notice will be published again in the Northern Territory News paper on Friday 29 November 2013.*

*The objection period is deemed to commence from Friday 29 November 2013.*

*Pursuant to Section 47F(2) of the Liquor Act an objection may only be made on the ground that the material alterations of licensed premises may or will adversely affect:*

- (a) the amenity of the neighbourhood where the premises the subject of the application are or will be located; or*
- (b) health, education, public safety or social conditions in the community.*

*Only those persons, organisations or groups described in Section 47F(3) of the Liquor Act may make an objection. Section 47G of the Liquor Act requires the Director of Licensing to inform the applicant of the substance of any objection. This will include the identity and where relevant the address of the objector.*

*For further information regarding this application contact the Director of Licensing on telephone 8999 1800. Objections to this application should be lodged in writing with the Director of Licensing, GPO Box 1154, Darwin, within thirty (30) days of the commencement date of the objection period.*

*Dated this 27th Day of November 2013*

- 5) Pursuant to Section 47F(4)(d) an objection must be lodged within thirty (30) days after the publication of the last notice, and under the *Interpretation Act* this would extend the objection period to Monday 30 December 2013.
- 6) Section 47F of the Act prescribes the circumstances in which an objection may be made, specifies the grounds for objection and identifies the persons entitled to object to a particular application -

*47F Person may object to certain applications*

- 1) *Subject to this section, a person, organisation or group may make an objection to the following applications:*
    - (b) *an application for a variation of the conditions of a licence, as notified under section 32A;*
  - 2) *The objection may only be made on the ground that the grant of the licence, variation of conditions, substitution of other premises or material alteration may or will adversely affect –*
    - (a) *the amenity of the neighbourhood where the premises the subject of the application are or will be located; or*
    - (b) *health, education, public safety or social conditions in the community.*
  - 3) *Only the following persons, organisations or groups may make an objection under sub-Section (1):*
    - (c) *a member or employee of the Police Force acting in that capacity;*
- 7) A submission has been lodged by Commander Anne-Marie Murphy on behalf of Northern Territory Police, Fire and Emergency Services (“the Police”) in response to the application and the applicant has provided a response pursuant to Section 47G of the Act. Under Section 47I of the Act the Commission must determine whether submissions received are valid objections and are to proceed to Hearing.

### **Submission from Commander Anne-Marie Murphy, Commander, Drug and Alcohol Policy Unit, Drug and Organised Crime Division, Northern Territory Police, Fire and Emergency Services:**

- 8) Section 47F(1)(b) provides that a person may lodge an objection to an application for variation of licence conditions. Commander Murphy is an officer of the Police force engaged with the Darwin Metropolitan Division and is entitled to lodge an objection pursuant to Section 47F(3)(c) of the Act. The objection is dated 13 December 2013 and was lodged within the prescribed period.
- 9) The objection by Commander Murphy states that Police do not support the licence variation sought “*as there is a real chance for negative impact on the community and increased requirement for policing services*”. The submission states that Darwin Waterfront Precinct was envisaged and promoted as an upmarket dining and hospitality precinct and the Police expressed concerns are that there is a shift from Restaurant Licence operations to On Licence and Tavern style premises occurring within the Precinct.
- 10) The objection maintains that there will be negative social impacts if another Tavern style premises in the area develops and goes on to raise concerns over community safety due to an increase in alcohol availability and the link this creates to social harms and antisocial behaviour.

### **Applicant’s Response to Objections**

- 11) Ms Poppi Ginis on behalf of Antiquity has responded to the objection from Commander Murphy. The applicant states that Antiquity is an up market a la carte restaurant with a décor and theme that is not presented to attract the market that is likely to engage in antisocial behaviour.

- 12) The response states that the restaurant has been trading for over nine months without any issues or antisocial behaviour. The applicant also advises that the variation sought will enable people to visit their premises, have a drink and enjoy the ambience and views of the Waterfront.

## Consideration of the Issues

- 13) The Commission in May 2013 adopted a Policy and Practice Note (Attachment A) relating to the appearance and fit out of licences issued to Restaurants. In this Practice Note the Commission determined to remove requirements in licence conditions that related to specified furnishings and fixtures and in doing so sought to remove exclusions of high tables and high stools where referred to in existing licence conditions.
- 14) In issuing the new Policy and Practice Note the Commission sought to achieve in restaurant licences an atmosphere which promotes the consumption of food and presents alcohol consumption as an ancillary activity, without prescribing furniture or fixtures and fittings. An application to remove a licence condition that prohibits high tables and stools is not inconsistent with this aim.
- 15) Conditions attaching to Antiquity's licence such as "*The premises shall at all times have the predominant appearance of and shall trade principally as a restaurant*"; and "*All patrons within the alfresco area must be seated in order to promote the restaurant concept*" are to remain. The licence trading hours of 11.30am to 11.30pm are also to remain unchanged under the application before the Commission.
- 16) The objection by Commander Murphy refers to negative impacts on the community should the variation be granted and also states that there will be consequences following increased availability of alcohol impinging on community safety and creating additional alcohol related harms.
- 17) The applicant has rebutted the Police claims by stating that the premises will remain that of an upmarket restaurant and not attract clientele wanting to engage in activities that will have an adverse impact on the community or generate antisocial activity.
- 18) Under the Act Commander Murphy is a valid objector being a member of the Police force. The objection was lodged within the prescribed time. The only matter remaining for consideration is whether the objection meets the criteria laid down in Section 47F(2) relating to the amenity of the neighbourhood and the health, education, public safety or social conditions in the community.
- 19) On this count it is clear that Commander Murphy's objection states that the variation to the licence conditions sought could result in adverse impacts on neighbourhood amenity, public safety and social conditions in the community and therefore the Commission accepts that the objection is valid and has standing.
- 20) It is noted that other parties who were provided with copies of the application including the Darwin Waterfront Corporation and Department of Health have no adverse comment to make.

**Decision**

- 21) The Commission has determined that the submission lodged by Commander Anne-Marie Murphy is valid and requires a Hearing pursuant to Section 47I(7) of the Act.
- 22) While the Commission is required to conduct a Hearing where a valid objection has been lodged, if the objector does not wish to attend and make oral submissions, the Commission is able to rely solely on the written objection it has before it. In this instance the Commission may determine to conduct the Hearing on papers only.

Richard O'Sullivan  
Chairman

13 February 2014